



An
Bord
Pleanála

Inspector's Report

ABP-311534-21

Development	Permission for the erection of a fully serviced dwelling house, garage and all associated site works.
Location	Graigue Great, Templetown, New Ross, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20210957
Applicant(s)	Sean Foley and Sarah Murphy
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Hook Construction Ltd.
Observer(s)	None
Date of Site Inspection	13 th January 2022
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The site has a stated area of 0.340 ha and is located in the townland of Graigue Great, Templetown, County Wexford. The site is located in a scenic area on the Hook Head peninsula c. 0.5km from Carnivan Head and c. 3km from the village of Fethard.
- 1.2. The site is accessed from a laneway which serves 3 dwellings and a farm building together with a further dwelling which is under construction at present. The site is close to the end of the laneway and is on lowlying land. The laneway serving the site is in poor condition and in terms of width, alignment, and surface treatment.

2.0 Proposed Development

- 2.1. The proposed development comprises of the following:
 - The construction of a single storey dwelling with a stated floor area of 159 square metres and a ridge height is 6.49m.
 - The construction of a detached garage with a stated floor area of 40 square metres.
 - New wastewater treatment system.
 - New entrance and driveway.
 - All associated site works.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to fifteen conditions. Condition 2 required the applicant to enter into an agreement under Section 47 in relation to the use of the property as their primary permanent residence for a period of 5 years. Condition 3 required that the dwelling would be used as a permanent residence only. Condition 10 (a) required the roadside boundary to be set back behind the required visibility line. Condition 10 (c) required that the construction of

the road side earth mound and associated planting to take place in the first planting season following commencement of development. All other conditions are of a standard nature for a development of this type.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The Planning Report reflects the decision to grant permission. It was noted that the site was located in a coastal zone and the applicant's complied with the rural housing policy in this area. It was considered that the landscape in the area had the capacity to absorb the proposed dwelling and that it would not give rise to individual or cumulative adverse impacts. It was noted that whilst the roof would allow for potential dormer conversion, it was not considered that this would have an adverse visual impact on the site and landscape.

3.2.2. **Other Technical Reports**

Senior Executive Scientist (Environment): No objection subject to conditions.

Roads Report (New Ross Municipal District): Notes that sightlines of 65m are required in both directions and have been achieved in both directions. No objection subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. None.

4.0 Planning History

ABP 311230-21

ABP granted Leave to appeal under Section 37 (6) of the Planning and Development Act, 2000, as amended, for the proposed development on the subject site.

ABP 308906-20

ABP granted permission for an electricity interconnector to connect Great Island 220kV substation in Wexford and National Grid's Pembroke substation in Wales.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative Development Plan is the Wexford County Development Plan 2013 to 2019 as extended. The plan sets out its rural housing policy in Chapter 4 and the site is located in a stronger rural area. The following objective is of relevance:

Objective RH02

To facilitate individual houses, other than those referred to in 'Areas Under Strong Urban Influence' in Table No. 12, in the existing settlements including those settlements defined in the settlement hierarchy as Strong Villages, Smaller Villages and Rural Settlements, subject to complying with normal planning and environmental criteria and the development management standards laid down in Chapter 18.

The site is located within the Coastal Zone Landscape of Greater Sensitivity.

Landscapes of Greater Sensitivity are designated under the Landscape Character Assessment contained in Volume 3 and are shown on Map No. 13. These areas are highlighted as the most sensitive and scenic areas of the county that need to be protected from inappropriate development for the benefit of future generations but

also because they are the reason that many people visit Wexford and so it is important to protect them for the tourist revenue they bring. Specific objectives with regard to design and siting in these areas are included in Section 14.4.

Relevant Policy is as follows- Section 13.5 Development outside of existing settlements in the Coastal Zone

The Council recognises the importance of retaining the character of the coastal zone so as protect the quality of the tourism product, the environment and to ensure the overall proper planning and sustainable development of the coastal zone. The Council will carefully consider development proposals outside of existing settlements, and in the case of one-off rural housing, will only consider developments where the applicant has demonstrated a need to reside at the particular location in accordance with the Sustainable Rural Housing Strategy in Chapter 4.

5.2. Sustainable Rural Housing Development Guidelines

- 5.2.1. The guidelines require a distinction to be made between ‘Urban Generated’ and ‘Rural Generated’ housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which ‘Rural Generated Housing Need’ might apply. These include ‘persons who are an intrinsic part of the rural community’ and ‘persons working full time or part time in rural areas’.

5.3. National Planning Framework- Project Ireland 2040, DoEHLG 2018

- 5.3.1. National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations.

5.4. Natural Heritage Designations

- 5.4.1. The site is not located within a designated Natura 2000 site. It is noted that the appeal site is located within 500m of Hook Head pNHA and Hook Head SAC and within 1.5km of Bannan Bay pNHA and Bannan Bay SAC.

5.5. EIA Screening

- 5.5.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal can be summarised as follows:
- The applicant's submitted false information regarding the extent of the landholding and their capacity to give an undertaking regarding adjacent boundaries.
 - The red line boundary includes land in the ownership of the appellant.
 - Conditions 10(a) and 10(c) cannot be complied with as the applicant has no right to interfere with property in the ownership of the appellant without his consent.

6.2. Applicant Response

The response submitted on behalf of the applicant can be summarised as follows:

- The applicant's agent apologises to Wexford County Council and the appellant as he understood that the applicant owned the land in question. This was an oversight.
- If he had known that the land was in the ownership of the appellant, permission would have been sought from him.

- It is considered that trimming of the ditch to the west will achieve adequate sightlines of 65m in both directions.
- The Council required that the ditch was removed and reconstructed behind the required sightlines in Conditions 10 (a) and (c). The Board is requested not to refuse permission, but rather remove these conditions.

6.3. **Planning Authority Response**

6.3.1. The Planning Authority response can be summarised as follows:

- The details regarding land ownership in the appeal are noted. An advisory note was attached to the permission stating: Section 34(13) of the Planning and Development Act 2000 (as amended) reads

‘A person shall not be entitled solely by reason of a Permission under this Section to carry out any development.’

This is referred to in the context of the need to avoid infringing in any way the rights of adjoining property owners.

6.4. **Observations**

- None.

7.0 **Assessment**

7.1. I consider that the principle planning issues are as follows:

- Rural Housing Policy
- Traffic Safety
- Appropriate Assessment

7.2. **Rural Housing Policy**

7.2.1. The National Planning Framework (NPO 19) states that a distinction should be made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment and elsewhere. In rural areas under

urban influence, single housing in the countryside may be facilitated where there is a demonstratable economic or social need to live in a rural area.

- 7.2.2. This site is located in a rural area under strong urban influence as designated in the Sustainable Rural Housing Guidelines (2005). These areas are described as exhibiting characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas, or major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network. These guidelines require planning authorities to distinguish between rural generated housing need and urban generated housing need and frame policies accordingly to limit housing development in rural areas not associated with a demonstratable need to live in the countryside.
- 7.2.3. The Wexford County Development Plan has had regard to the Sustainable Rural Housing Guidelines and map 6 Rural Area Types in the plan places the subject site within an area designated as a stronger rural area. It is an objective under RH03 to facilitate the development of individual houses in the open countryside in 'Stronger Rural Areas' in accordance with the criteria laid down in Table No. 12 and subject to compliance with normal planning and environmental criteria and the development management standards laid down in Chapter 18. The site is located in an area of Greater Sensitivity as indicated on Map 13 of the Landscape Character Assessment. The site is lowlying and located close to the end of a sparsely populated laneway and I concur with the views of the planner's report that the landscape has the capacity to absorb the proposed development and would not give rise to individual or cumulative adverse impacts.
- 7.2.4. Table 12 of the Development Plan outlines the criteria for both coastal zones and stronger rural areas. Housing is permitted for 'local rural people' building permanent residences for their own use who have a definable 'housing need' building in their 'local rural area'. In terms of the information submitted with the application and appeal response, I note that Sean Foley's family home is located on the laneway, he works with Mann Engineering Ltd. in Horestown c. 17km from the site, he attended school in the local area and has been a member of the local GAA club for many years. It is stated that his partner works for the same company and mainly works from home. They both currently live in temporary accommodation in Arthurstown and

want to return to live in the local area to be close to siblings, friends, and family support.

- 7.2.5. The documentation as submitted with an application is the only acceptable way to determine a person's compliance with National and Local Policy. National Policy Objective 19 clearly sets out that in rural areas, single housing is to be facilitated '... in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area' subject to design considerations. The applicants have not provided any evidence in relation to economic or social needs which would stand up to strict scrutiny. They have stated that no new permissions have been granted in the Fethard area due to capacity issues in the village sewerage system and whilst this may be the case, alternative housing options do not appear to have been examined in nearby areas. It is acknowledged that Sean Foley has grown up in the area and has familial links with the area but he has not demonstrated that he has a social or economic need to live in the area. Neither of the applicants have occupational or employment related ties to the rural area in question. One of the applicant's works from home and it would appear that there is no requirement to live in a newly built one off dwelling for this purpose, whilst the other applicant works for the same company in an office based job c. 17km from the site. Notwithstanding the applicant's connections to the area, I do not consider that the proposal constitutes a rural generated housing need based on social or economic needs and I recommend that planning permission should be refused on this basis.

7.3. **Traffic Safety**

- 7.3.1. Section 18.12 of the Wexford County Council Development Plan requires that sightlines of 65m in both directions from access points onto local/ county roads. The sightlines to the east of the junction of laneway with the public road are satisfactory however the sightlines to the west of the junction are somewhat restricted. Information submitted with the application indicated that landholding on both sides of the laneway junction at this location were in the ownership of the applicant's father. It was proposed to trim back the hedgerow at this location in order to achieve satisfactory sightlines in accordance with Development Plan standards. A letter from

the applicant's father was attached giving permission for the maintenance of the ditches in order to provide satisfactory sightlines in both directions.

- 7.3.2. The report from the Roads Section considered that sightlines were satisfactory and recommended permission including a condition which required that sightlines were maintained at all times.
- 7.3.3. Condition 10 (a) required that the road side boundary mound and hedge be removed and reconstructed behind the required visibility line together with planting at this location. Condition 10 (c) required that the planting take place in the first planting condition following commencement of development.
- 7.3.4. Hook Construction Ltd. sought leave to appeal the decision of the Planning Authority under ABP 311230-21 on the basis that the lands to the west of the laneway were in their ownership and the applicant had submitted false information regarding the extent of his landholding. It was stated that the applicant's had no access or permission to interfere with his boundary. Leave to appeal was granted by the Board under Section 37 (6) of the Planning and Development Act, 2000, as amended.
- 7.3.5. In response to the appeal, the applicant's agent stated that an oversight had been made and it is now known that the land is in the ownership of Hook Construction Ltd. The applicant's father owns the land to the east of the laneway only. The lane only serves three houses with a fourth under construction and it is vital that they have secure and safe access onto the public road. This has been achieved by keeping the ditch to the west trimmed down. It is proposed that by keeping the hedge trimmed down as it is at present, this will provide adequate sightlines.
- 7.3.6. I note that the access laneway serving the site is seriously substandard in terms of width, alignment and surface treatment. I refer the Board to Photograph 6 taken on the site inspection in this regard. Whilst sightlines available to the east of the junction of the laneway with the county road are adequate, sightlines available to the west are restricted. I accept that the information submitted in the application in relation to land ownership and consent to maintain hedgerow to provide adequate sightlines was an oversight. However, notwithstanding this, the applicant does not have any consent to provide adequate sightlines to the west of the junction and the owner of these lands has appealed the decision of the Planning Authority. It is considered therefore that permission should be refused having regard to the substandard width,

alignment and surface treatment of the access laneway and the inadequate sightlines at the junction of the laneway with the county road. These factors combine to create a significant traffic hazard in my view and the additional traffic turning movements generated by the proposed development would endanger public safety by reason of traffic hazard.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development, its location and separation from the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on any European site.

8.0 Recommendation

- 8.1. I recommend refusal for the following reasons:

9.0 Reasons and Considerations

1. Having regard to the location of this site within an Area Under Strong Urban Influence in accordance with the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government in 2005, National Policy Objective 19 of the National Planning Framework (February 2018), which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstratable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements, the Board could not be satisfied on the basis of information on the file that the applicants come within the scope of either economic or social housing need criteria as set out in the overarching National Guidelines.

The proposed development, in absence of any identified local based need for the house at this location, would result in a haphazard and unsustainable form

of development in an unserviced rural area, would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure, and would undermine the settlement strategy set out in the current development plan for the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The site is located on a laneway which is substandard in terms of width, alignment, and surface treatment and where sightlines with the junction of the laneway with the county road are inadequate in a westernly direction. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements it would generate on this poorly aligned and substandard road network.

Emer Doyle
Planning Inspector

30th June 2022